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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,364	10/30/2003	David Wayne Gregg	65936	7901

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EXAMINER
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ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



<b>Office Action Summary</b>	<b>Application No.</b> 10/697,364	<b>Applicant(s)</b> GREGG, DAVID WAYNE	
	<b>Examiner</b> Raymond W. Addie	<b>Art Unit</b> 3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/17, 12/17/2003</u> . | 6) <input type="checkbox"/> Other: _____  |



## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5-10, 17, 19, 20, 23-27, 34, 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Zieger et al. # 5,846,176.

Zieger et al. discloses a concrete stamping apparatus (10) comprising:

A roller (12) including a surface defined by a stamp.

A receiver portion (16/18, 22, 24) for receiving the roller in a rotatable engagement.

A fluid transport system (28, 32-34, 36) including at least one conduit (32, 36) for providing fluid to the roller along the surface.

Wherein the at least one conduit (32, 34) includes at least one sub line (36) on its end.

The at least one sub line configured for extending at least to the receiver portion for providing fluid to the roller along the surface. See Fig. 3; Col. 3, ln. 50-col. 4, ln. 54.

In regards to Claims 5-7, 20, 23-25 Zieger et al. explicitly discloses the "irrigation member (34) terminates in a plurality of conduits (36)". Zieger et al. further explicitly recites "a water bottle (28)...whereby a hose (32) connects the...bottle (28) to the inlet valve (33) of an irrigation member (34)...An alternative embodiment...incorporates a



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hand-controlled water release, such as a finger trigger that actuates water flow from bottle (28) through hose (32) and into conduits (36).

In regards to Claims 8-10, 17, 19, 26, 27, 34, 36 Zieger et al. discloses the receiver portion is configured for weighting the roller, by supporting a water bottle (28) attached to the receiver at (24); and that the stamp includes a random pattern of protrusions (14) that provide a texture to the concrete being finished. Zieger et al. further discloses the receiver portion includes oppositely disposed lateral members (18) and a cross bar (16) in communication with the lateral members and that the stamp can be in the form of a rubber, plastic or metal sheet that can be affixed to the roller (14).

In regards to Claims 36-38 Zieger et al. discloses a method for stamping concrete comprising:

Providing a stamping apparatus comprising:

A roller (14) having a surface defined by a stamp.

A receiver portion (16/18, 22, 24) for receiving the roller in a rotatable engagement.

A fluid transport system (28, 32, 33, 34, 36) including at least one conduit (34, 36) for

Providing fluid to the roller along the surface.

Moving the apparatus over the concrete being worked for stamping the concrete in accordance with the stamp.

Activating the fluid transport system for releasing fluid. See col. 3, ln. 50-col. 4, ln. 62.



***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 21, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zieger et al. '176 in view of Jones # 5,022,783.

Zieger et al. discloses a concrete stamping device (10) having a fluid delivery system comprising a plurality of spray bars/sub lines (36), to wash concrete from the surface of the stamp; but does not disclose the use of spray nozzles attached to the fluid delivery system. However, Jones '783 teaches it is desirable to provide a concrete stamping device with a fluid delivery system (14, 14a) comprising a spray bar (14) and a plurality of spray nozzles (14a), for washing concrete away from the stamping surface.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the fluid delivery system of Zieger et al., with a plurality of spray nozzles, as taught by Jones '783, in order to accurately distribute the concrete release fluid over the surface of the stamping device. See Jones Col. 4, Ins. 10-20.



3. Claims 11, 18, 28, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zieger et al. '176 in view of Brimo # 4,776,723.

Zieger et al. discloses a concrete stamping tool comprising a roller (12) a plurality of randomly disposed protrusions (14) for forming a texture on the concrete surface having a random pattern. What Zieger et al. does not disclose is a concrete stamping tool having a pattern that is separate from the formed texture. However, Brimo teaches a concrete stamping tool (50) can have inner and outer blades (52, 54) for providing a desired pattern (such as herringbone bricks) to a soft concrete surface, and that the flat portion (56) of the tool (50), between the blades (52, 54) can be provided with a pattern, specifically to "produce simulated texture of the material being simulated in concrete". See col. 4, Ins. 15-46. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the concrete stamping device of Zieger et al. with a texture forming device, as taught by Brimo, in order to increase the aesthetic appearance of the concrete being stamped.

In regards to Claims 18, 35 Zieger et al. discloses the stamp can be formed from rubber or plastic sheeting, but does not specifically disclose the use of Urethane Rubber. However, Brimo teaches that concrete stamping device are advantageously formed from urethane rubber, to provide flexibility to the stamping device. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made



to make the concrete stamping device of Zieger et al., from urethane rubber, as taught by Brimo, in order to facilitate various goals, as explicitly taught by Brimo, see col. 6, Ins. 7-21.

4. Claims 12-14, 16, 29-31, 33, 37, 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zieger et al. '176 in view of Chandler et al. # 3,910,738.

Zieger et al. discloses a concrete stamping tool (10) and method of stamping concrete, the concrete stamping tool (10) having a roller (12) received by a receiver having oppositely disposed lateral members (16) and a cross member (17) in communication with the lateral members (16). Zeigler et al. further discloses it is desirable to provide weights to the handle of the concrete stamping device; but does not disclose the use of a holder for holding the removable weights on the device. However, Chandler et al. teaches it is desirable to add or remove weights (26) to a holder (24) mounted on a receiver-member, to control the depth of impression formed in the concrete being worked. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the concrete stamping tool of Zieger et al., with a removable weight assembly, as taught by Chandler et al., in order to form a desired pattern in the concrete being worked. See col. 1, Ins. 47-67.



In regards to claims 16, 33 Ziegler et al. discloses the use of a fluid delivery system to clean the compaction roller of concrete, having a fluid delivery conduit (32) attached to the receiver portion at (24). But does not disclose disposing the fluid conduit (32) inside the handle. However, Chandler et al. discloses a concrete stamping device having a tubular receiver portion (16-22), that provides an inlet (unnumbered) for a conduit (46) to enter the interior of the tubular receiver portion. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to dispose the fluid conduit, of Ziegler et al., within a tubular receiver portion, as taught by Chandler et al., in order to protect the conduit from damage. See Chandler et al. col. 2, Ins. 22-36.

In regards to Claims 37-38 Zieger et al. discloses a method for stamping concrete to include the method step of adding removable weights to the receiver portion (24). But does not disclose the method step of adding or removing weight from the device. However, Chandler et al. teaches it is desirable to add or remove, removable weights from a receiver portion of a concrete stamping device, in order to control the depth of impression formed in the soft concrete. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the method of stamping concrete of Zieger et al., with the method steps of adding and removing



removable weights from a concrete stamping device, as taught by Chandler et al., in order to control the depth of impression of the intended design. See Chandler et al. col. Col. 1, ln. 47-67.

5. Claims 12-15, 29-32, 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zieger et al. '176 in view of Wynings # 6,585,451 B2.

Zieger et al. discloses a concrete stamping tool (10), having a compaction roller (12) supported by a yoke , but does not disclose the use of removable weights.

However, Wynings teaches it is desirable to provide a pair of ganged weight banks (40), mounted on holders (38) to each lateral side of a compaction roller (10) to adjust the compaction force generated by the compaction roller, thereby avoiding the need to fill the compaction roller with a ballast material. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the compaction roller of Zieger et al., with a pair of ganged weight assemblies, as taught by Wynings, in order to facilitate control of the compaction force applied by the compaction roller. See Wynings Col. 3, lns. 16-28.

### **Conclusion**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gundersen # 4,036,126 discloses a soil compacting device.



Magalski # 5,222,828 discloses a fluid delivery system for a roller. Schilling # 828,575 discloses a roller assembly having removable weights. Loveland # 1,099,185 discloses a concrete stamping apparatus. Dunham # 942,892 discloses a weighted land roller.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on 8-2, 6-8.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Raymond Addie**  
**Patent Examiner**  
**Group 3600**

4/30/2004